In addition, the Examiner is requiring an election of species of one from each of A, B and C listed below.

A. Metallic materials (see claim 1):

1. iron particles
2. iron powder
3. iron fiber
4. carbon steel particles
5. carbon steel powder
6. carbon steel fiber
7. stainless steel particles
8. stainless steel powder
9. stainless steel fiber

B. Fillers (see claim 4):

1. blast furnace slag
2. water-granulated blast furnace slag
3. air-cooled blast-furnace slag
4. air-cooled slag
5. converter slag
6. copper slag
7. ferronickel slag
8. silica fume
9. flay ash
10. coal ash
11. clay
12. shirasu

13. diatomaceous earth

14. grain ash

C. Neutron-absorbing materials (see claim 6):

1. boron carbide

2. boric acid

3. boron oxide

4. ferroboron

5. borated stainless steel

Applicants have elected with traverse, Group I: Claims 1-7 and 15-18, drawn to composites for examination. In addition, Applicants elect, with traverse, for search purposes only, species (A.2.) iron powder, species (B.8.) silica fume and species (C.4.) ferroboron for examination. Claims 1-7, 15 and 16 read on the elected species.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctness (M.P.E.P. § 803). Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing sufficient reason and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

The Examiner has categorized the relationship between Groups I and II and Groups IV and II as mutually exclusive species in an intermediate-final product relationship. The Examiner has stated that the Groups "...are deemed patentably distinct."

However, the Examiner has not provided a sufficient example or reason to support the criteria required to demonstrate patentable distinctness. Therefore, the Examiner's reasoning is nearly a restatement of the examiner's conclusion that the groups are patentably distinct.

As the examiner has provided insufficient reasons in support of this belief, the examiner has not met the required burden, and accordingly, the restriction is believed to be improper and should be withdrawn.

The Examiner has categorized the relationships between Groups III and IV as product and process of making product. Patentable distinctness may be shown if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make other and different products, or (B) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)).

However, the Examiner has not provided a sufficient example or reason to support the criteria required under § 806.05(f)). Therefore, the examiner's reasoning is nearly a restatement of the examiner's conclusion that the two groups are patentably distinct. As the examiner has provided insufficient reasons in support of this belief, the examiner has not met the required burden, and accordingly, the restriction is believed to be improper and should be withdrawn.

The Examiner also concludes that Groups I and II, Groups I and III, Groups I and IV, Groups II and III, Groups II and IV and Groups III and IV have acquired separate status and therefore, the groups are patentably distinct.

However, the Examiner has not provided a sufficient example or reason to support the criteria required to establish patentable distinctness. Therefore, the examiner's reasoning is nearly a restatement of the examiner's conclusion that the two groups are patentably distinct. As the examiner has provided insufficient reasons in support of this belief, the examiner has not met the required burden, and accordingly, the restriction is believed to be improper and should be withdrawn.

Applicants note that claims to a product have been elected. If the product claims are found allowable, Applicants request that the claims for making and using the products be rejoined.

In addition, Applicants respectfully traverse the Election of Species Requirement on the grounds that the Office has not provided any reasons, whatsoever, to support the conclusion of patentable distinctness. Rather, the Office has merely stated the conclusion.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed (MPEP § 808.01(a)). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants' election of species is for examination purposes only.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Election of Species Requirement. Withdrawal of the Election of Species Requirement is respectfully requested.

With respect to the elected species, Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Finally, Applicants respectfully submit that the Office has not shown that a serious burden exists in searching the entire application.

Applicants submit this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Respectfully submitted,

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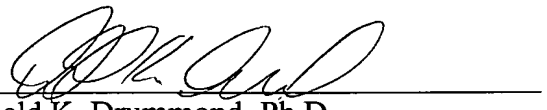
Norman F. Oblon



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